



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

JOHN EDWARD DUNCAN,
Plaintiff,

vs.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,
Defendant.

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CIVIL ACTION NO. 1:14-2621-MGL-SVH

ORDER ADOPTING THE REPORT AND RECOMMENDATION,
DENYING DEFENDANT'S MOTION TO DISMISS,
GRANTING DEFENDANT'S MOTION TO TRANSFER VENUE,
AND GRANTING PLAINTIFF'S REQUEST THAT THE DEADLINE TO FILE HIS BRIEF
BE STAYED UNTIL THE CASE IS TRANSFERRED

This is a Social Security appeal in which Plaintiff seeks judicial review of a final decision of Defendant denying his claim for Disability Insurance Benefits (DIB) benefits. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting to the Court that Defendant's motion to dismiss be denied, Defendant's motion to transfer venue to the Northern District of Georgia be granted, and Plaintiff's request to stay the deadline to file his brief until the case is transferred to the Northern District of Georgia be granted. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 30, 2015, but neither party filed any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Defendant’s motion to dismiss is **DENIED**, Defendant’s motion to transfer venue to the Northern District of Georgia is **GRANTED**, and Plaintiff’s request to stay the deadline to file his brief until the case is transferred to the Northern District of Georgia is **GRANTED**.

IT IS SO ORDERED.

Signed this 11th of June, 2015, in Spartanburg, South Carolina.

s/ Mary G. Lewis
MARY G. LEWIS
UNITED STATES DISTRICT JUDGE